DOCKET FILE COPY ORIGINAL

RECEIVED

JUN 26 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
End User Common Line Charges	)	CC Docket No. 95-72
	)	

COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION IN RESPONSE TO FURTHER NOTICE OF PROPOSED RULEMAKING

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits the following comments in response to the Commission's Further Notice of Proposed Rulemaking proposing to assess a primary interexchange carrier charge ("PICC") on special access lines.[1] For the reasons explained below, CompTel opposes the imposition of a new, non-cost based surcharge on special access lines. Moreover, the premise for such a surcharge -- the perceived necessity to prevent "migration" from switched access -- is unrealistic and does not justify a departure from cost causation principles. The Commission therefore should not adopt its proposed expansion of the PICC and should

[1] *Access Charge Reform, et al.*, First Report and Order at ¶¶ 397-406, FCC 97-158 (rel. May 16, 1997).

instead continue to recover the interstate common line revenue requirement solely from switched access customers.

I. BACKGROUND

In its *First Report and Order* in these dockets, the Commission made a number of changes to both the rate structures and rate levels for interstate switched access charges assessed by incumbent LECs ("ILECs"). As described by the Commission, the "principal effect of [these changes] is to reduce the amount recovered through per-minute interstate access charges and increase the amount recovered through flat-rated charges."[2] Specifically, the *Order* reduced the Carrier Common Line Charge ("CCL"), which is assessed on a per-minute basis, and eventually will eliminate it altogether by increasing the Subscriber Line Charge ("SLC") in some instances and by creating the PICC, a new flat-rated charge assessed on the IXC presubscribed to a switched access line.[3] Changes in SLCs, PICCs and the CCL are coordinated by the *Order* to transition from per-minute access elements to a primarily flat-rated access structure.

The *Order* maintained the existing $3.50 SLC for primary residential and single line business customers.[4] Recognizing that this decision will preclude ILECs from recovering all

---

[2] *Order*, ¶ 53.

[3] *Id.*, ¶¶ 67-105.

[4] *Order*, ¶ 73. The Commission permitted increases in the SLC for nonprimary residential lines (*i.e.*, second lines) and for multi-line business customers. *Id.* ¶¶ 75-78
(continued...)

of the common line costs from these SLCs, the *Order* authorized ILECs subject to price caps to recover the excess according to the following priority: (1) through a newly-created PICC on primary residential and single line business lines, subject to a cap; (2) through a PICC on nonprimary residential and multi-line business lines, which also is subject to a cap; and finally, (3) any remainder through a per-minute CCL assessed on all originating access minutes.[5] The PICC for primary residential and single line business lines initially will be capped at $0.53 per line, and the cap will increase by $0.50 (plus inflation) in 1999 and 2000 thereafter.[6] The PICC for nonprimary residential lines will be capped at $1.50 per line, and will increase by $1.00 (plus inflation) in 1999 and 2000 thereafter.[7] Finally, the PICC for multi-line business lines will be capped at $2.75 per line, and will increase by $1.50 (plus inflation) in 1999 and 2000 thereafter.[8] However, the Commission stated that it "anticipate[s] that the actual PICC imposed upon multi-line business lines will, on average decrease from 1998 to 1999, and for every year thereafter, and will fall to less than $1.00 by

---

[4](...continued)
(initially capping the SLC for nonprimary residential lines at $5.00 and for multi-line business customers at $9.00).

[5] *Id.*, ¶¶ 55-60.

[6] *Id.*, ¶ 94; 47 U.S.C. § 69.153(c).

[7] *Order*, ¶ 99; 47 U.S.C. § 69.153(d)(1).

[8] *Order*, ¶ 99; 47 U.S.C. § 69.153(d)(2).

2001."[9] We understand that the Commission's staff anticipates the multi-line PICC will decline to zero during this period.

In short, the Commission holds the SLC for primary residential and single line business lines steady, but permits a phased-in increase in the PICC for these lines to recover most of the non-traffic sensitive costs of common lines. During the phase-in, multi-line business customers likely will experience higher flat-rated charges for switched access. However, PICCs are expected to decline to less than $1.00, and potentially to zero by 2001.

In the *FNPRM* portion of the *Order*, the Commission proposes to assess the PICC on special access lines.[10] The Commission explains that it is concerned that as a result of the changes to its switched access rate structure (which are designed to recover common line costs in the manner in which they are incurred), "it may be cost effective for some multi-line businesses that are currently using switched access to purchase instead special access."[11] This, the Commission speculates, "could lead to the migration of certain businesses from the public switched network to special access, which would result in a decrease in projected revenue from multi-line SLCs."[12] Applying the PICC to special access, the Commission

---

[9] *Order*, ¶ 59.

[10] *Order*, ¶¶ 397-406.

[11] *Order*, ¶ 401.

[12] *Id.*, ¶ 402.

tentatively concludes, "is necessary for our transition from the per-minute CCL charge to the flat PICC to work."[13]

II. PICCs FOR SPECIAL ACCESS LINES VIOLATE THE COMMISSION'S COST CAUSATION PRINCIPLES AND WOULD DISTORT ECONOMIC INCENTIVES IN COMPETITIVE MARKETS

The *FNPRM* proposes a solution that elsewhere in the same order was rejected as bad policy. In restructuring access charges, the Commission stated that its goal was to *remove*, "distortions and inefficiencies" caused by the way regulators permitted access to be priced.[14] "Rationalizing the access charge rate structure," the Commission concluded, "[would] ensure that charges more accurately reflect the manner in which the costs are incurred, thereby facilitating the movement to a competitive market."[15] Despite the conclusion that "rational" rate structures promote competition, the *FNPRM* proposes to add a surcharge, which bears absolutely no relationship to special access costs at all, to a service for which competition has been growing. CompTel submits that this "solution" will undermine the development of cost-based switched access rates and will distort competition in both the switched access and special access markets.

A PICC assessed on a special access line indisputably is a pure subsidy. The costs that are recovered by PICCs are not caused by special access lines. Rather, they represent

[13] *Id.*, ¶ 404.

[14] *Order*, ¶ 13.

[15] *Id.*

the interstate revenue requirement that has been allocated to "common lines," *i.e.,* the cost of telephone plant used to provide both local telephone service and to originate and terminate long distance calls. Switched access customers use these common lines and accordingly the switched access rate structure is designed to recover a reasonable share of the revenue requirement attributed to them. Special access, by contrast, bypasses the common lines to establish a dedicated path between the customer premise and the IXC, which is used exclusively for originating and terminating long distance calls.

Indeed, it is undisputed that special access rates are fully compensatory, whether measured in terms of its forward looking economic costs or in terms of the fully embedded costs allocated under part 69 of the Commission's rules. If a PICC is added onto these already fully compensatory rates, the Commission will have distorted the market for special access by artificially inflating its prices. Moreover, in the name of "rationalizing" switched access rates, the Commission will have merely replaced the existing non-cost based rate structure and excess costs with a new subsidy flowing from special access users. It will not have reduced or eliminated the costs or promoted a market where competition will drive those costs down. Such outcomes, even if only for a "transitional" period, are not in the public interest. The Commission should focus on eliminating these non economic costs, not shifting them from one service to another.

III. THE COMMISSION IS MISTAKEN IN ITS PREMISE THAT PICCs FOR SPECIAL ACCESS LINES ARE NECESSARY TO IMPLEMENT ITS ACCESS CHARGE REFORMS

The *FNPRM* recognizes that the proposal violates cost causation principles and would impose an uneconomic subsidy upon special access users.[16] It offers two reasons for imposing this subsidy, however. First, the Commission states that the proposal is necessary to the success of its transition to flat rated switched access charges.[17] Second, the Commission asserts that the subsidy is "temporary in nature and will be phased out" as switched access SLCs and PICCs increase.[18] Neither rationale justifies adoption of the proposal.

The central premise of the proposal is that assessing a PICC on special access is necessary to prevent multi-line business customers from migrating from switched access to special access in order to avoid the PICC. The migration of customers from switched access to special access, it is believed, will undermine the transition to higher PICCs and SLCs for primary residential and single line business customers because it will remove needed revenues during the transition process. This premise is fundamentally flawed. At the outset, this rationale presumes that the existing switched access revenues recovered by the ILECs are

---

[16] *Order*, ¶ 404.

[17] *Id.*

[18] *Id.*

at cost-based levels. This is a proposition that even the Commission rejects.[19] The apparent concern that ILECs will underrecover switched access costs if some multi-line business customers migrate to special access is unfounded.

More fundamentally, there is no evidence that a significant number of customers will respond to the Commission's changes by moving to special access, nor is there any reason to believe this is likely the case. While the changes to the access charge rate structure will increase the flat rated charges to multi-line businesses (and the IXCs serving them), this increase coincides with reductions in per-minute charges for switched access usage. However, a substantial percentage of multi-line businesses still have sufficiently low volumes of long distance minutes that a move to special access would not make economic sense, regardless of whether a PICC applied to such lines. For the high-volume multi-line businesses, the ones that might have sufficient traffic volumes to make special access feasible, rate reductions they can expect from their IXCs likely will reduce the incentive to migrate to special access lines. Of course, as is the case today, some customers will have enough long distance traffic that special access can be more efficient and cost-effective to the customer. This type of "migration," however, is what one would expect from the workings of a competitive market and should not be discouraged through an artificial surcharge imposed on special access lines.

---

[19] *Id.*, ¶¶ 44-46 (noting that its rate level reductions are a "first step" and that it may take "several years to drive costs to competitive levels").

The Commission's second rationale -- that the PICC would be "temporary" and apply only during a brief transition period -- actually cuts against adopting the proposal. The migration from switched access to special access may require significant changes for both the customer and the carrier. The customer may need to acquire a PBX or otherwise reconfigure or upgrade its customer premises equipment, and the carrier will need to make new network arrangements to accept the customer as a special access customer. Moreover, LECs sometimes charge substantial installation or other non-recurring charges for reconfiguring a circuit from switched access to special access. These charges make economic sense only if the customer expects to realize savings over a sufficiently long period of time to allow it to recover its up-front expenses. If, as the Commission posits in the *FNPRM*, it is the temporary increase in the PICC that may make special access less costly for a customer, then it is likely that in many cases the reconfiguration expenses would consume all of the expected savings over the short duration that the high PICC applies to its switched access lines.

In summary, CompTel does not believe that the Commission's migration concern is realistic. The Commission's changes are not likely to lead significant numbers of customers to migrate from switched access to special access, simply to avoid PICCs. In most cases, the changes would not alter the point at which special access becomes more efficient than switched access. Accordingly, imposing an uneconomic surcharge on special access lines is neither necessary to carry out the restructuring of switched access rates nor is it an appropriate policy choice. Therefore, CompTel opposes assessing PICCs on special access lines, and recommends that the Commission reject the proposal.

Respectfully submitted,

THE COMPETITIVE
TELECOMMUNICATIONS ASSOCIATION

By: ______________________
Robert J. Aamoth
Steven A. Augustino
KELLEY DRYE & WARREN LLP
1200 Nineteenth Street, N.W., Suite 500
Washington, D.C. 20036
202-955-9600

Its Attorneys

Genevieve Morelli
Executive V.P. and General Counsel
THE COMPETITIVE
TELECOMMUNICATIONS ASSOCIATION
1900 M Street, N.W.
Suite 800
Washington, D.C. 20036
202-296-6650

June 26, 1997